CRLR 133 of 2004

Hon. P.C. Pant, J.

Heard learned counsel for the revisionist.

This is a criminal revision moved under Section 397 read with Section 401 of Cr.P.C., 1973, against the order dated 06.08.2004 passed by the Judge Family Court, Haridwar whereby the learned lower Court has imposed a condition of depositing maintenance to the tune of Rs. 10,000/- for entertaining the application moved by the revisionist under Section 126(2) of the Code for setting aside the ex parte order passed for maintenance.

A perusal of the ex parte judgment and order shows that Rs. 2,500/- per month for the wife of the revisionist and Rs. 2,500/- per month for his daughter, has been fixed as maintenance. The said ex parte order was passed in September 2003. While the impugned order imposing the aforesaid condition was passed on 6th August 2004. As such the condition impugned as to the deposition of Rs. 10,000/- towards the maintenance makes out it to be Rs. 1,000/- per month instead of Rs. 5,000/- per month awarded by the ex parte order. As such in the circumstances of the case the condition cannot be said to be unjust.

In view of the above facts and circumstances of the case the revision deserves to be disposed of summarily with the direction that on payment of amount of Rs. 10,000/- within one month from today to the respondent Nos. 2 and 3 towards the maintenance the application under Section 126(2) of the Cr.P.C. shall stand allowed and ex parte order dated 20.09.2003 shall stand set aside. In case of failure of the above direction the ex parte award shall be enforceable. The amount deposited shall be adjusted towards the interim maintenance, if any fixed by the Court during the proceedings under Section 125 of the Cr.P.C.

(P.C. Pant, J.)

Dt. 17.08.2004

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